

# EXHIBIT A

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

- - - - - X

ALTAGRACIA DIAZ, on behalf of :  
herself and all others :  
similarly situated, : 12 CV 3781

Plaintiff, :

-against- : U.S. Courthouse  
Central Islip, N.Y.

RESIDENTIAL CREDIT SOLUTIONS, :  
INC., :

Defendant. :

: September 29, 2014

- - - - - X 9:30 a.m.

TRANSCRIPT OF FAIRNESS HEARING

BEFORE:

HONORABLE ARTHUR D. SPATT, U.S.D.J.

APPEARANCES:

For the Plaintiff: LAW OFFICES OF KLEINMAN, LLC  
626 Rexcorp Plaza  
Uniondale, New York 11556  
BY: ABRAHAM KLEINMAN, ESQ.

For the Defendant: LOWENSTEIN SANDLER, LLP  
1251 Avenue of the Americas  
New York, New York  
BY: JASON HALPER, ESQ.

Court Reporter: HARRY RAPAPORT, CSR  
United States District Court  
100 Federal Plaza  
Central Islip, New York 11722  
(631) 712-6105

Proceedings recorded by mechanical stenography.  
Transcript produced by computer-assisted transcription.

1 THE CLERK: Civil cause for fairness hearing,  
2 Diaz against Residential Credit Solutions, Inc.

3 THE COURT: Please state your appearances.

4 MR. KLEINMAN: Good morning, your Honor.

5 Law offices of Kleinman LLC, by Abraham  
6 Kleinman, for the plaintiff and the class.

7 THE COURT: Good morning.

8 MR. HALPER: Good morning, your Honor.

9 Jason Halper of Loweinstein Sandler LLP, for the  
10 defendant.

11 THE COURT: I didn't get your name, what is it.

12 MR. HALPER: Jason Halper, H-A-L-P-E-R.

13 THE COURT: Mr. Kleinman, you are interested in  
14 me approving this settlement, right?

15 MR. KLEINMAN: We are, your Honor.

16 THE COURT: Why?

17 MR. KLEINMAN: Your Honor, this is a case that  
18 involved a Fair Debt Collections Practices Act, where the  
19 plaintiff complained a violative collection letter.

20 With the assistance of your Honor we reached a  
21 settlement several months ago, and subsequent to that  
22 notice was sent out.

23 Notice was sent, your Honor, to 378 persons.  
24 Only 350 of those were effective and reached their  
25 destination.

1 Of those 350 notices that reached their  
2 destination, ninety-one persons opted into the class.  
3 Eighty-eight of those were timely, your Honor. Three were  
4 a bit late. And at this juncture, if your Honor approves  
5 the class, we would ask that the Court allows those three  
6 that were late to be included in the class.

7 Should your Honor approve the class and approve  
8 all 91 claim forms each member would receive \$1,098.90.

9 THE COURT: \$1,098 and 98 cents?

10 MR. KLEINMAN: 90 cents.

11 Plaintiff believes it is a terrific result for  
12 the class because in an ordinary situation the maximum  
13 amount a consumer could receive under the Act would be  
14 \$1,000.

15 Here each class member, should the Court  
16 approve, would be getting in excess of the statutory  
17 amount listed in the Fair Debt Collections Practices Act.

18 Also at this time, your Honor, we would ask the  
19 class representative receive an incentive fee totalling  
20 \$5,000 for her participation in the class.

21 THE COURT: That is Ms. Diaz. A male or female?

22 MR. KLEINMAN: A female, at Altagracia Diaz.

23 THE COURT: She is going to get 5,000?

24 MR. KLEINMAN: Should the Court approve.

25 The reason we ask for the incentive fee is

1 Ms. Diaz was very involved in the class, and followed the  
2 travel of the case, appeared for deposition, appeared for  
3 a conference before Magistrate Judge Tomlinson, and has  
4 been very effective and has followed the case in toto.

5 We would also ask, your Honor, that the Court  
6 approve the attorney's fees in the amount of \$98,330.

7 THE COURT: That would be in addition to the  
8 100,000?

9 MR. KLEINMAN: It would, your Honor.

10 THE COURT: And what is the hourly rate for  
11 that?

12 MR. KLEINMAN: My hourly rate was at \$300, and  
13 Ms. Hardy in Illinois, if I can have a moment to double  
14 check, I believe that was at \$325 per hour for Ms. Hardy  
15 of the Edelman Combs firm in Illinois.

16 THE COURT: And what about payments to the  
17 paralegal? What rate is being paid?

18 MR. KLEINMAN: They pay their paralegal between  
19 100 and \$125 per hour, your Honor.

20 THE COURT: Mr. Halper.

21 MR. HALPER: Good morning, your Honor.

22 We have no objection to the settlement.

23 The only thing that I would point out to your  
24 Honor is that in the proposed final order for approval of  
25 the class settlement that the plaintiff filed on September

1 24th, in paragraph one it does mention that there were 88  
2 class members who submitted a timely claim firm.

3 So, if we are going to approve --

4 THE COURT: Which form are we talking about?

5 MR. HALPER: I'm sorry, your Honor.

6 The proposed final order, document 62-4 on the  
7 documents, which was filed by the plaintiff on September  
8 24th.

9 MR. KLEINMAN: If the Court would like, your  
10 Honor, I can present a copy.

11 THE COURT: I don't see it. Can I see a copy?

12 MR. KLEINMAN: Can I approach?

13 THE COURT: Yes.

14 MR. KLEINMAN: Thank you.

15 (Handed to the Court.)

16 THE COURT: Just one minute.

17 I do have a copy. It is Exhibit C, for Charley,  
18 right?

19 MR. KLEINMAN: Yes, your Honor.

20 THE COURT: Okay.

21 You can return this.

22 MR. KLEINMAN: May I approach?

23 THE COURT: Yes.

24 So, you mentioned that the final order says 88  
25 class members, when there actually are going to be 91 if I

1 approve the three late filings?

2 MR. HALPER: Yes.

3 THE COURT: I will approve the three late  
4 filings, so it will be 91.

5 MR. HALPER: Yes, your Honor.

6 We have no objection to that.

7 The only other thing I will mention, your Honor,  
8 in paragraphs 6 and 17 of the proposed final order, it  
9 states that the claims that are being released in this  
10 case are being dismissed without prejudice. We would just  
11 ask the claims be dismissed with prejudice.

12 I have conferred with Mr. Kleinman about that,  
13 and if you look at paragraph 21 --

14 THE COURT: Any objection to the dismissal with  
15 prejudice, Mr. Kleinman?

16 MR. KLEINMAN: Your Honor, we would be happy to  
17 dismiss it with prejudice after a period where an appeal  
18 might be filed.

19 THE COURT: Okay.

20 MR. HALPER: And that is fine with me.

21 If we were to do that, I would ask that  
22 paragraphs 6 and 17 be clarified.

23 THE COURT: You will have to amend that.

24 MR. HALPER: Yes.

25 THE COURT: Anything else?

1 MR. HALPER: Not from the defendant, your Honor.<sup>7</sup>

2 MR. KLEINMAN: If I may, your Honor? I would  
3 just like the Court to note that there have been no  
4 objections or exclusions, and no one has appeared today.

5 However, I was informed that a Ms. Francine  
6 Moore, who was a claim member, whose claim was title, who  
7 the Court has since approved, was planning in attending  
8 today. And I do not see her in the Court.

9 I have a conference before Judge Feuerstein at  
10 11:00 o'clock this morning, and if the Court allows I will  
11 stay to address the concerns.

12 THE COURT: What concerns does she have?

13 MR. KLEINMAN: She just wanted to see the  
14 proceedings, but nonetheless, if I can stay I will address  
15 any concerns she may have.

16 THE COURT: Anything else, counsel?

17 MR. KLEINMAN: No, your Honor.

18 THE COURT: This is one of the easiest class  
19 actions fairness hearings, I have ever been in. As a  
20 matter of fact, it is probably the only one in which  
21 there is no objection. And the attorney's fees are fair.  
22 That combination we rarely see.

23 We have a situation where under the statute the  
24 damages would be a thousand dollars a person generally  
25 with some exceptions, to the Fair Debt Collections



1 Practices Act violation. And here the claimants are going  
2 to receive \$1,098.90. So they are a little bit ahead of  
3 the game.

4 I think that, therefore, the \$100,000 to be  
5 distributed to the 91 class members is fair. Each class  
6 member, as I said would get \$1,098.90, which is a little  
7 more than they would receive under the statute.

8 The \$5,000 to the class representative is also  
9 in my opinion fair. She is the one who put the work in.

10 Also, the attorney's fees of \$94,330 at rates of  
11 300 and 325 dollars an hour is also fair.

12 The paralegal of 100 to 125, that is okay as  
13 well.

14 So that, surprisingly, everything in this  
15 agreement is fair. And I'm going to approve it in its  
16 entirety.

17 So, I want you to send me a final approval order  
18 with the revisions that counsel for the defendant has  
19 raised. And that is paragraph 17 has to be revised.

20 What is the other revision?

21 MR. HALPER: It was also paragraph six, your  
22 Honor, it was to be without prejudice.

23 THE COURT: Yes.

24 MR. HALPER: And I believe --

25 THE COURT: It is going to be with prejudice.

1 MR. HALPER: And paragraph 1 references there  
2 were 88 participating --

3 THE COURT: It has to be 91?

4 MR. HALPER: Yes.

5 THE COURT: So you will have to make those  
6 changes.

7 Send that to me with notice and I will sign it.

8 MR. KLEINMAN: Thank you, your Honor.

9 THE COURT: Okay.

10 This has been a very easy fairness hearing.

11 Thank you very much.

12 MR. KLEINMAN: Thank you, your Honor.

13 Just for completeness of the record, those  
14 members who do not cash their checks, those monies will go  
15 to the Legal Aid Society, your Honor.

16 THE COURT: Thank you.

17 This fairness hearing is concluded.

18 MR. HALPER: Thank you, Judge.

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21 (End of proceedings.)

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